

Municipal Screening Bylaws and Ordinances per Act 56

Activity as of January 26, 2016

Summary of Local Implementation of Act 56:

- Two towns have adopted screening ordinances or bylaws (Bennington and Cornwall).
- Three towns have a proposed ordinance or zoning bylaw (Hinesburg, Tinmouth, Woodford).
- Several other towns are discussing (e.g., Cambridge, Elmore, Fairfax, Guildhall, Irasburg, Johnson, Ludlow, Morgan, Shelburne, Swanton).

Towns with Adopted Ordinances or Bylaws:

- **Bennington (ordinance): ADOPTED** solar screening ordinance in November 2015 and added language to town plan. To the best of our knowledge, one ground-mounted solar project, Maple Leaf Solar LLC (500 kW), was proposed in Bennington, in January 2016. The town provided a letter of support for the project, stating that, "the current proposal appears to be consistent with the Town's Solar Screening Ordinance, its current and proposed Town Plan guidelines related so solar projects siting, its zoning bylaws, and with the Bennington County Regional Plan." The Public Service Board has not yet issued a ruling on the project.

Provisions of Bennington's ordinance include:

- Siting and screening shall mitigate visual impacts of facilities from public streets, scenic viewpoints, and/or adjacent properties. The Town of Bennington Selectboard shall determine screening requirements and associated site issues for each facility based on standards in the Ordinance.
 - Screening shall provide a year-round visual screen and shall occur on property owned or controlled by the solar facility owner and/or operator. A diversity of materials is to be used, including indigenous trees/shrubs and/or berms.
 - All screening shall be maintained for the lifetime of the project, and plantings that die or become diseased shall be replaced within six months.
- **Cornwall (bylaw): ADOPTED** interim solar screening bylaw in September 2015. To the best of our knowledge, one ground-mounted project, Sun CSA 56 LLC (150 kW), was proposed in Cornwall, in August 2015. The town intervened as of right in September, and filed comments that included reference to the solar screening bylaws. The Public Service Board issued an order noticing a hearing and stating that though the application was submitted before the screening bylaws were adopted, it would treat the new bylaws as instructive of the Town's concerns about screening for the Project. The developer withdrew the project application in November citing expenses that would be involved.

Provisions of Cornwall's bylaw include:

- Each project shall incorporate screening that (i) breaks up the visible area of the project so as to prevent unobstructed views of the project; (ii) mitigates adverse aesthetic

impacts on views from residences and public highways; and (iii) harmonizes the project with the character of the surrounding landscape and neighborhood.

- Any project must incorporate sufficient screening to ensure that the visible area of the project represents no more than 5% of the field of view from any of the following: (i) any point within a residence; (ii) any point within 150 feet of a residence; or (iii) any point on a public highway.
- Plantings for screening purposes shall be of sufficient height, density, and maturity to achieve the screening standard within three years of planting.
- A project shall be sited within a parcel in such a manner as to make maximum use of pre-existing vegetation, hedgerows, hills, ridges, buildings, and other topographical features and structures that naturally screen the project, thereby minimizing the need for the installation of new screening materials.
- Screening maintenance plan required. Makes property owner jointly and severally liable for maintenance along with developer.
- Provides minimum set back of 100 feet from road and 50 feet from property boundaries for 150 kW projects.

Towns with Proposed Ordinances or Bylaws:

- **Hinesburg (bylaws):** The Planning Commission held a public hearing on proposed solar screening zoning regulation revisions on January 13, 2016.
- **Tinmouth (bylaw):** proposed amendments presented by Planning Commission on November 30, 2014.
- **Woodford (bylaw):** proposed zoning amendment in November 2015.